



WEEKLY LEGISLATIVE REPORT

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The *Weekly Legislative Report* is a publication of the Vermont League of Cities & Towns (VLCT). It is published during the Vermont legislative session to update VLCT members on legislative activities important to municipalities.

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Veto Session has Local Governments on the Horns of a Dilemma: Which Way do you Want your Property Taxes Increased?

The fact that municipalities will not be able to send out property taxes until after the budget standoff is resolved is not the worst news of this process for local officials, as both the governor's and the legislature's plans include property tax increases.

The legislature will be back in Montpelier on Tuesday, June 2, to deal with the likely veto of the state budget. The Vermont League of Cities and Towns (VLCT) expressed grave concern over the governor's alternative budget proposal issued last week that would shift a huge, unfunded, and ongoing cost to property taxpayers. In that alternative, Governor Douglas reiterated his call to shift the obligation to pay for the state teachers' retirement plan from broad-based state tax support to the Education Fund, which depends on the property tax for two-thirds of its revenues. The expense for state FY10 is \$40.3 million, but is expected to rise rapidly in coming years due to past state underfunding of its obligations, rapidly expanding costs of benefits provided by the legislature and governors over the years, and the terrific beating the retirement system took on its investments due to the recent economic downturn. The projected expense for the next fiscal year (state FY11) jumps by 50 percent to \$60 million.

Both H.441, the budget passed by the legislature (see the Municipal Funding Priorities in FY 2010 Budget spreadsheet on page 2), and the governor's alternative obligate property taxpayers to pay about \$23 million more this year than Act 60/68 would require. (See the Education Fund Outlook spreadsheet on page 4.) The legislative bill requires this through a number of means including underfunding the statutorily required General Fund support of education by almost \$20 million, eliminating a reimbursement that school districts receive from Medicaid for providing eligible services to needy children, and funding state programs such as the Corrections Department's education program and a Human Services early education program from the Education Fund. The shift in the governor's plan is due mainly to the funding for the teacher's retirement plan, but it also replicates some of the shifts proposed by the legislature and also eliminates property tax adjustments for households with incomes between \$75,000 and \$90,000 a year.


In March, the state treasurer's office briefed legislative leaders on the impacts of the recent stock market losses on the state's teacher retirement fund. Just to offset the losses on investments from June 30 to December 31, 2008, the state's FY10 contribution for the teachers' retirement fund would have had to rise from the \$41.5 million budgeted to \$57.2 million. Though the stock market has recently regained some from its low point in March, the Dow Jones Industrial Average as of today is still 300 points below its dismal standing at the end of last year. The full report is posted at www.vlct.org/advocacy/currentnews/.

Municipal Funding Priorities in FY 2010 Budget (in Millions), Conference Committee Report, 5/8/09

Budget Line Item	FY09 Final	FY10 Governor's Recommend	FY10 House Approved	FY10 Senate Approved	FY10 Conference Committee Report	FY 10 Conf. Comm. Change from FY09 Final	FY10 Conf. Comm. Change from FY10 Gov. Recommend	FY10 Conf. Comm. Change from FY10 House Approved	FY10 Conf. Comm. Change from FY10 Senate Approved
PILOT – ANR Lands ¹	\$2.01	\$2.13	\$2.13	\$2.13	\$1.73	-13.9%	-18.8%	-18.8%	-18.8%
PILOT – Corrections Facilities ²	\$0.04	\$0.04	\$0.04	\$0.04	\$0.04	0.0%	0.0%	0.0%	0.0%
PILOT – Montpelier ²	\$0.18	\$0.18	\$0.18	\$0.18	\$0.18	0.0%	0.0%	0.0%	0.0%
PILOT – State Buildings ³	\$4.50	\$4.35	\$4.90	\$4.90	\$4.90	8.9%	12.6%	0.0%	0.0%
Current Use – Municipal	\$9.85	\$10.81	\$10.81	\$10.81	\$10.81	9.7%	0.0%	0.0%	0.0%
General Fund Transfer to Education Fund ⁴	\$291.13	\$274.78	\$297.78	\$297.78	\$277.88	-4.6%	1.1%	-6.7%	-6.7%
General Fund Support of Teachers' Retirement System ^{5,6}	\$33.55	\$0.00	\$40.30	\$40.30	\$41.50	23.7%		3.0%	3.0%
Town Bridge Grants ⁷	\$16.53	\$19.17	\$19.31	\$19.31	\$24.68	49.3%	28.7%	27.8%	27.8%
Town Highway Aid Program ⁸	\$24.98	\$24.98	\$27.28	\$24.98	\$24.98	0.0%	0.0%	-8.4%	0.0%
Town Highway Aid Program – Class 1 Supplemental	\$0.13	\$0.13	\$0.13	\$0.13	\$0.13	0.0%	0.0%	0.0%	0.0%
Town Highway Structures ⁹	\$3.83	\$3.83	\$7.67	\$3.83	\$3.83	0.0%	0.0%	-50.0%	0.0%
Vermont Local Roads	\$0.38	\$0.38	\$0.38	\$0.38	\$0.38	0.0%	0.0%	0.0%	0.0%
Town Highway Public Assistance Grants	\$0.20	\$0.20	\$0.20	\$0.20	\$0.20	0.0%	0.0%	0.0%	0.0%
Municipal Mitigation Grant Program	\$2.11	\$2.11	\$2.11	\$2.11	\$2.11	0.0%	0.0%	0.0%	0.0%
Class 2 Highway Paving and Rehabilitation ⁸	\$6.45	\$6.45	\$7.45	\$6.45	\$5.75	-10.9%	-10.9%	-22.8%	-10.9%
Town Highway Emergency	\$0.25	\$0.75	\$0.75	\$0.75	\$0.75	200.0%	0.0%	0.0%	0.0%
Total Local Highway Aid	\$54.86	\$58.00	\$65.28	\$58.15	\$62.81	14.5%	8.3%	-3.8%	8.0%
TOTAL	\$396.12	\$350.29	\$421.42	\$414.29	\$399.85	0.9%	14.1%	-5.1%	-3.5%

1. We believe the figure for the FY10 Conference Committee Report is an error and should read “\$2.13 million,” but that’s what is in the bill. We believe it is a *scrivener’s error* that will be corrected before signing.
2. All FY09 and FY10 figures have been shifted from being paid from the General Fund in FY08 to the PILOT for state buildings special fund. This new cost reduces the amount distributed under PILOT – State Buildings.
3. FY09 and FY10 figures are all from local options tax sharing and no state monies.
4. Required to increase by New England economic project cumulative price index for government purchases (16 V.S.A. § 4025(a)(2)). Governor proposed to reduce for this year and then to change the automatic adjustment to reflect changes in Vermont state spending. Conference Committee report uses \$38 million of ARRA federal stimulus funds and totals \$18.4 million less that required by the above-cited statute.
5. Governor proposed shifting responsibility for paying for system to the Education Fund without any state assistance.
6. Despite the title, in the House version only \$33.5 million is coming from the state General Fund. The remaining \$6.8 million will come from ARRA, the federal stimulus money. Conference Committee report contains \$1.275 million of Medicaid reimbursement funds that used to go into the Education Fund to reduce property taxes.
7. Includes state and federal aid only, no local match. In the House version, \$16.27 million of this is included in H.441, the appropriations bill, from federal funds. The other \$3.04 million is coming from state bonded money included in H.428. Conference committee reports include ARRA stimulus funds as well.
8. FY09 figures have been reduced by \$985,000 (15% of the January payment) from this figure.
9. In the House column, one-half of the FY10 House Appropriations figure is included in H.441, the appropriations bill, from the Transportation Fund. The other half is coming from state bonded money included in H.428.

It is *unacceptable* to make state government’s present financial problems and past underfunding of a retirement system that it created the responsibility of local governments and property taxpayers. The recent losses in investments have



only exacerbated problems created over at least 20 years by not properly funding the state's obligations and providing benefits without also providing the revenue to pay for them. The treasurer's report shows that for the past two decades, governors and legislatures have only funded an average of 75 percent of what was required to fully pay for the retirement benefits promised by previous legislatures and administrations. Also, the state has allowed the system to pay up to 80 percent of retired teachers' health insurance premiums, but has provided no additional revenues to pay for them. That present cost is \$15 million a year and growing at the same double-digit pace as all health insurance costs. Payment currently comes out of pension contributions being made by active teachers and the state, which means that the amount necessary to fund the pension benefits is that much less than it should be every year. The treasurer's report shows that this other post employment benefit (OPEB) has an unfunded liability of \$863.6 million, given that the state is not pre-funding this obligation.

The treasurer's report showed that negative investment returns suffered in the last six months of 2008 would have pushed the "unfunded liabilities" of the teachers retirement system from \$379.5 million to \$653.6 million, and its "funding ratio" from 80.9 percent of what it should be today to just 67.1 percent. The actual amounts of the state's contributions to be made are determined on the actuarial study results as of June 30 every year.

Though the shift of the retirement fund obligations poses a bigger long-term threat to property taxpayers, we must reiterate that neither the legislature's nor the governor's plan should have the support of local officials. Under either budget plan, property taxpayers are "shifted and shafted." Even with limited school budget increases this year, education property taxes are projected to increase by \$30 million from last year's bills under either plan. The state property tax generates about \$8 million per penny after income sensitivity is applied, so either plan adds three and one-half cents to the previous state property tax rates.

Because the budget will also decide the state education property tax rates to be applied, towns will not be able to generate tax bills until the matter is resolved, at least for school taxes. The statute states that the base tax rates are \$1.10 for homestead properties and \$1.59 for nonresidential unless the legislature sets a different rate. That's a substantial difference from the \$.85 or \$.86 for homesteads and \$1.34 or \$1.35 for nonresidential being negotiated.

The future of the FY10 transportation bill also hangs in the balance until the budget fight is resolved. While the transportation bill is passed separately, the money spent within H.438 is not appropriated there – but rather in the budget bill. What impact the budget stalemate has on funding for local highway programs, if any, is not clear. Should the debate drag on deeper and deeper into June (and the close of the state's fiscal year on June 30) it will run perilously close to July 15, when the first of the four quarterly Town Highway Aid payments is scheduled to be made. The legislature approved funding Town Highway Aid at the same level as the past five or so fiscal years (\$24.98 million), though it did not restore the \$925,000 cut from the January 2009 payment.


Municipal officials should tell the governor and their legislators that shifting their deficit to towns and property taxpayers is *not* acceptable, and that they should take whatever steps are necessary to deal with the state taxing and spending issues within their own budget and revenue structure and not pass it on to another level of government, a move roundly decried by administrations and legislatures throughout history when the federal government has done the same to state government. Tell them both to go back to the drawing board and agree to an honest budget that provides the services the state and its taxpayers can afford without passing the buck.

Notes on the Education Fund Outlook spreadsheet: These figures are very confusing. One main area of confusion is in lines 4 and 5 of "Sources" and on line 11, "Education Payment." Both the legislature and the governor propose using American Recovery and Reinvestment Act (ARRA, or federal stimulus)

Education Fund Outlook – Conference Committee with H.12 vs. Governor’s Proposal as of 5/19/09 vs. ‘What Should Be’

(millions of dollars)

	FY2009 Projected	FY2010 Conference Committee Report with H.12	FY2010 Governor’s Proposal as of 5/19/09	FY2010 What Statutes Would Require	Difference Between What the Statutes Require and Conference Committee	Difference Between What the Statutes Require and Governor’s Proposal
a Base Homestead Tax Rate ¹	\$0.87	\$0.86	\$0.85	\$0.836	-\$0.02	-\$0.014
b Uniform Non-Homestead Tax Rate ¹	\$1.36	\$1.35	\$1.34	\$1.326	-\$0.02	-\$0.014
c Base Rate on Household Income ¹	1.80%	1.80%	1.80%	1.80%		
d Household Income Limit	\$90,000	\$90,000	\$75,000	\$90,000	\$0.00	\$15,000.00
e Housesite Value Limit	\$200,000	\$200,000	\$200,000	\$200,000		
f Base Education Payment Per Pupil	\$8,210	\$8,544	\$8,544	\$8,544		
g Equalized Pupil Count	95,676	94,107	94,107	94,107		
h Education Grand List Growth Rate	9.7%	6.9%	6.9%	6.9%		
i Education Spending Growth Rate	5.0%	2.2%	2.2%	2.2%		
¹ The statutory education tax rates are homestead property, \$1.10 (base tax rate); nonresidential property, \$1.59; and household income, 2% (base tax rate).						
Sources						
1 Homestead Education Tax	462.5	490.5	484.8	477.0	-\$13.50	-\$7.84
1a Homestead Property Tax Adjustment	(120.7)	-140.9	-131.0	-140.9	\$0.00	-\$9.85
Net Homestead Education Tax	341.8	349.6	353.8	336.1	-\$13.50	-\$17.69
2 Non-Homestead Education Tax	535.2	556.3	552.2	546.6	-\$9.70	-\$5.62
2a Total Property Taxes	876.9	905.9	906.0	882.7	-\$23.20	-\$23.31
3 Sales and Use Tax	107.3	106.8	105.8	106.8		
4 Purchase & Use Tax	22.7	22.5	22.5	22.5		
4a ARRA Fiscal Stabilization Funds		38.6	43.8			
5 General Fund Transfer	291.1	259.2	274.8	297.8		
5a Supplemental General Fund Transfer		-18.4				
5b Total General Fund and ARRA Support	291.1	279.4	318.6	297.8	\$18.40	-\$20.78
6 Lottery Transfer	20.7	19.7	19.7	19.7		
7 Medicaid Transfer	5.3	0	4.6	4.7	\$4.70	\$0.10
8 Vermont Yankee Education Tax	1.9	1.9	1.9	1.9		
Fund Interest			0.3			
10 Total Sources	1,326.0	1,336.2	1,379.2	1,336.1	-\$0.10	-\$43.07
Uses						
11 Education Payment	1,111.9	1136.1	1136.5	1133.0	-\$3.10	-\$3.46
12 Special Education	142.5	142.5	142.5	142.5		
13 State-Placed Students	16.4	18.9	15.9	18.9	\$0.00	\$3.00
14 Transportation	15.0	15.5	15.5	15.5		
15 Technical Education	12.4	12.8	12.8	12.8		
16 Small Schools	6.6	7.0	7.0	7.0		
17 EEE Block Grant	5.5	5.7	5.7	5.7		
17a Early Education Initiative		1.1	1.1		-\$1.10	-\$1.13
18 Capital Debt	0.2	0.2	0.2	0.2		
19 Adult Education & Literacy	2.3	3.0	3.0	3.0		
19a Teachers Retirement			40.3	0.0	\$0.00	-\$40.30
20 Renter Rebate (EF share only - 70% of total)	5.6	5.9	5.9	5.9		
21 Reappraisal & Listing Payment	3.2	3.5	3.5	3.2		
22 Drivers Education	0.4					
23 Tech Center Leadership Ed Grants	0.1					
24 Other (EF interest; Other)	1.8	-0.3		1.7		
25 Total Uses	1,323.8	1351.9	1389.9	1349.4	-\$2.50	-\$40.50
Fund Balance						
26 Current Year Revenue Surplus/(Deficit)	2.1	-15.7	-10.7	-13.3	\$2.40	-\$2.56
39 Available for education tax rate reduction	\$15.80	-\$3.26	-\$1.96	\$0.04	\$3.30	\$2.00



funds to lower the General Fund support of education. Because the federal government requires separate reporting and accounting to spend this money, the ARRA funds are being provided to school districts separately outside of normal channels, but will be spent by school districts as part of their approved budgets. Some administration and legislatively produced spreadsheets that explain the budget do not show these funds as revenues or income sources or as expenses as education payments. Because they are part of the whole revenue and spending plan for schools and the state, VLCT has included all ARRA funds as revenues and expenses on our version of the Education Fund outlook so we can better compare apples to apples with last year's finances and "what should be" available under our existing statutes.

VLCT also estimated what state education property tax rates could be if the governor and legislature followed the law and provided the \$297.8 million of General Fund support for education and did not transfer the costs of existing state programs to the Education Fund. After taking into account other Education Fund revenues and expenses, the tax rate could be 2.4 cents lower than was proposed by the legislature, and 1.4 cents less than the governor's proposal. This all happens without lowering the eligibility for income sensitivity from \$90,000 per household to \$75,000. The last two columns try to point out the significant differences between what the legislature and governor are proposing that cause property taxes to be higher than "what should be."

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Economic Development and Energy

On May 27, the governor decided to let H.446 become law without his signature, despite his objections to the "standard offer" in the bill and his looming threat of a veto. The standard offer will establish minimum rates to be paid by electric customers for various renewable sources of electricity in long-term fixed price contracts. By September 15, the Public Service Board is required to open and complete a docket to determine if the standard offer prices are reasonable and to establish new prices if those established in statute are found to not be reasonable.

H.446 contains many provisions relating to energy efficiency. It provides that American Recovery and Reinvestment Act (ARRA) dollars coming to the state for energy programs be used for (1) the Vermont small-scale renewable energy incentive program for use in residential and business installations, (2) grant and loan programs for renewable energy resources including thermal resources such as district biomass heating, and (3) grants and loans to thermal energy efficiency incentive programs, certification and training for renewable energy workers, promotion of local biomass and geothermal heating, and an anemometer loan program.

(Language relating to decommissioning the Vermont Yankee nuclear facility is in H.436, which the governor vetoed on May 22.)

In one of the few outright wins for local governments this year, H.446 includes language that enables the creation of clean energy assessment districts by municipalities. Within the boundaries of such a district the voters of a municipality could agree to incur indebtedness or otherwise finance renewable energy projects undertaken by owners of real property within the district. Members of the district would be limited to property owners who agree to participate. A property owner would make improvements, such as weatherization or solar panels for hot water, on his or her property and repay the costs of the project and district administration as a surcharge on his or her property tax. Depending upon the life of the project, the surcharge could be repaid over a term of up to 20 years. Several towns and cities around the state are eager to develop these districts in their communities. With the governor's decision to allow H.446 to become law without his signature, those municipalities can now move ahead.

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